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June 14, 2017

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street SW  
Washington DC 20554

RE: Wireless Infrastructure Notice of Proposed Rulemaking and Notice of Inquiry  
WT Docket No. 17-79

Dear Ms. Dortch:

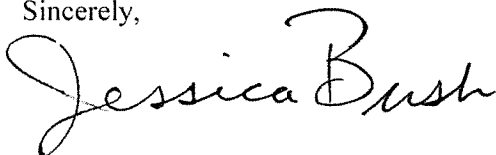
After having reviewed WT Docket No. 17-79 in its entirety, the Montana SHPO (MT SHPO) does not support the proposed rule changes that could affect SHPO review of Section 106 FCC undertakings. Commissioner Mignon L. Clyburn states, "there are actions that can be taken on both sides of the aisle". Where in this docket are the actions that the cellular companies will be taking to improve the Section 106 process for communications facilities? Where are the concerns that SHPOs have expressed about the Section 106 process for communication facilities addressed? Where are the provisions in this docket that ensure that cellular companies will comply with the proposed rules?

The MT SHPO supports the FCC and its goals when it comes to the deployment of wireless infrastructure in the United States, but this docket seems to be a one-sided approach, and indicates a bias to the concerns of the cellular companies over SHPOs and other parties concerned with historic preservation.

From August 2014 to May 2017, the MT SHPO received 155 file search requests and 206 concurrence requests. The average response time for the file search requests was 1.8 days, and 6.7 days for the concurrence requests; the longest response time was 21 days. These numbers are significantly below the allowed 30 days and do not substantiate the claims of cell companies that we are causing a delay in deployment. We have also documented that when an undertaking is not concurred with the after the first submittal, it is often due to contractor error.

Attached to this letter are comments that address specific sections of the docket. We look forward to further consultation with the FCC on this docket and the future of Section 106 as it relates to communication facilities. Any questions about the provided comments can be addressed to Jessica Bush at [jbush2@mt.gov](mailto:jbush2@mt.gov) or 406-444-0388.

Sincerely,



Jessica Bush, M.A.  
Review and Compliance Officer, Deputy SHPO  
Montana State Historic Preservation Office

Cc: Erik Hein, National Conference of State Historic Preservation Officers *via email*

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Section II. B. 2. a. 33

What about SHPO concerns? When cell companies abuse the already flexible FCC Section 106 program comments, what recourse do SHPOs have? Why aren't SHPO concerns with the FCC's process addressed in this docket?

Section II. B. 2. a. 34

Many of these delays, at least here in Montana, are the result of cell companies hiring consultants from out of our state and region to cut costs. These consultants tend to have very little experience completing/submitting documents for the Section 106 process in our state, there is a lack of familiarity with our regional cultural resources, and overall, there is a significant lack of knowledge on how the TCNS process works and the nationwide rules that apply to communication facilities.

Section II. B. 2. a. 39

The MT SHPO review process does NOT duplicate the work of Certified Local Governments (CLG). Most, if not all, of the CLG preservation officers in MT are not secretary of the interior qualified and, therefore, are not qualified to concur with effect determinations under Section 106.

Section II. B. 2. a. 41

Historic preservation review in Montana for FCC undertakings have never exceeded the allotted 30 days. Our review numbers were discussed in the cover letter and sent to the NCSHPO for submittal as a part of their comment on this docket.

Section II. B. 2. b. i. 54

The more tower or antennae that are added to a structure, especially within a historic district (HD) or on an Eligible building, can lead to a cumulative Adverse Effect. Just because one or two antennae were cleared in the past with No Adverse Effect, does not mean that cell companies should get carte blanche clearance to put up as many as they want.

The TCNS having information on areas where previous cultural resource concerns were raised could be a good idea depending on implementation.

Section II. B. 2. b. ii. 60

The average response time for FCC undertakings in Montana is 6.7 days. We believe that it is unreasonable for cell companies to expect a faster response time. Advances in communications should have no bearing on response times from SHPOs; we still must process, read, and respond to each undertaking.

Section II. B. 2. b. ii. 63

Based on the Section 106 review process in Montana, batching of cell towers would be an added burden for our office, and would likely increase our response times.

Section II. B. 2. c. i. 68

Replacement poles within a HD should not be excluded from Section 106 review. In many cases, the original tower or antennae that was put up in a HD had some sort of agreed upon size restrictions or camouflage. What guarantee is there that replacements will be like the original installation? Deviations from what was agreed upon by the cell company and SHPO for the original facility could result in an Adverse Effect.

Section II. B. 2. c. ii. 69

Many of the transportation corridors in the State of Montana were built either through or on top of cultural resources. Therefore, we do not consider ROWs to be cleared for Section 106 and they should not be excluded from FCC's Section 106 review.

Section II. B. 2. c. ii. 70

Auguring, plowing, and drilling do not always "guard" against potential effects to cultural resources, and in fact, they may severely impact the integrity of an Eligible cultural resource.

If a communication facility deployment is adjacent to/or on a National Register listed cultural resource or HD it should NOT be excluded from the Section 106 process. If these types of exclusions are passed, how will SHPOs know if any of the size or other restrictions are being followed by cell companies? There needs to be a way to hold cell companies accountable and to ensure that they are following the stipulations correctly.

Section II. B. 2. c. ii. 71

Who will be ensuring that cell companies are constructing these proposed excluded communication facilities within the parameters for an appropriate size increase? What is considered a substantial increase in size? One set of standards for a 'substantial increase in size' may not be an appropriate way to prevent an Adverse Effect for all cultural resource types in varying locations.

If infrastructure already exists, adding additional communications equipment could result in a cumulative effect, which is why they should go through the Section 106 process.

Section II. B. 2. c. iii. 73

The distance for exclusions of collations near HD should NOT be reduced. Again, this change does not consider cumulative effects that could lead to an Adverse Effect.

Section II. B. 2. c. iii. 75

As mentioned above, most CLG historic preservation officers in Montana are not SOI qualified and do not have the experience or education to concur with effects of determination under Section 106. This exclusion goes entirely against the Section 106 process and its associated standards for professionals.

Section II. B. 3. 82

NO. Twilight towers should NOT be excluded from the Section 106 process. This would send a message to cell companies, and other agencies, that even if they do not follow Section 106, there will be no consequences. This would set a precedent that could undo some of the basic foundations of Section 106.

Section II. B. 3. 83

The implication that because a cultural resource was destroyed by a twilight tower, there is no point in trying to mitigate, and that cell companies can add collocations is insensitive and deeply disrespectful to Tribes and NHOs.

Section II. B. 4. 86

Again, this section implies that it is okay for cell companies to ignore Section 106. Who is making sure that they are following all the previous exemptions appropriately?